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November 19, 2007

MICHAEL D. JEW  
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Honorable Jed S. Rakoff  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Local 580 v. D.F.S.  
Civil Action No.: 07 civ 5463(JSR)  
Our File No.: 4003-899

Dear Judge Rakoff:

This firm represents Iron Workers Local 580 in the above referenced matter. I write this letter pursuant to the Court's Order of November 7, 2007. I have made repeated efforts to contact Mr. LoFaso to arrange for an audit of DFS and Maspeth's books and records. Enclosed please find a letter I sent to Mr. LoFaso on November 8, 2007. In addition, I have placed telephone calls to the last known telephone number of DFS (which is now Maspeth Steel's telephone number.) Mr. LoFaso does not answer his telephone and his voice mailbox is full and will not allow a message to be left.

I note that the Court's Order directs the plaintiffs to arrange for an audit of the defendants' books and records "promptly." I regret to inform the Court that, due to defendants' lack of responsiveness, my efforts have been unsuccessful. I had hoped to avoid having to seek the Court's further intervention, but at this point there appears no other avenue.

Very truly yours,

COLLERAN, O'HARA & MILLS L.L.P.

By: 

DENIS A. ENGEL

Cc: D. LoFaso

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JUDGE RAKOFF

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LOCAL UNION NO. 580 OF THE :  
INTERNATIONAL ASSOCIATION OF BRIDGE, :  
STRUCTURAL, ORNAMENTAL AND :  
REINFORCING IRON WORKERS AFL-CIO et :  
al., :

07 Civ. 5463 (JSR)

ORDER

Plaintiff, :

-v- :

D.F.S. BROTHERS IRON WORKS, INC. and :  
MASPETH STEEL FABRICATORS, INC., :

Defendant. :  
----- x

JED S. RAKOFF, U.S.D.J.

In open court on September 5, 2007, counsel for defendants, Robert Tavon, informed the Court that he had been suspended from the practice of law by the State of New York and had a grievance matter pending before the Grievance Committee for the United States District Court, Southern District of New York. The Court informed Mr. Tavon that he should alert his clients to the fact that, if he was suspended, they would need to obtain new counsel. See transcript 9/5/07. On October 16, 2007, Mr. Tavon informed counsel for plaintiffs, Denis Engel, that he had been suspended from the practice of law and that his clients would need to obtain new representation. The Court then sent a letter to Mr. Tavon asking him to advise the Court, on or before October 29, 2007, of what steps he or his clients had taken to obtain new counsel. The Court also asked Mr. Tavon to advise his clients that as corporations, they could not appear pro se and would need to retain new counsel. The Court concluded: "To avoid entry of a default judgment, such new counsel must enter an

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JUDGE RAKOFF

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appearance by Monday, November 5, 2007." On October 29, 2007, the Court received a fax from Mr. Tavon stating that he had informed his clients that they needed to obtain new counsel and that he would "impress upon them the urgency and your [November 5, 2007] deadline." Nonetheless, the November 5th deadline has passed and no new counsel has noticed any appearance for the defendants.

Accordingly, the Clerk of the Court is hereby directed to enter final judgment against defendants, on default. Specifically the arbitrator's award is hereby confirmed and defendants, jointly and severally, are liable to plaintiffs in the sum of \$52,494.63. In addition, defendants are hereby found jointly and severally liable for wages and employee benefit contributions for each hour of covered employment DFS or Maspeth performed since October 1, 2005, in an amount to be determined after an audit of defendants' books and records, which plaintiffs shall arrange promptly. Lastly, defendants are hereby found jointly and severally liable for interest, liquidated damages, attorneys fees, and other costs associated with the collection of unpaid employee benefit contributions pursuant to 29 U.S.C. §§ 1132 & 1145, in an amount to be submitted promptly to the Court by plaintiffs. The Court shall retain jurisdiction to resolve any disputes that may arise as to the as-yet unspecified amounts referenced in the preceding two sentences.

SO ORDERED.

Dated: New York, New York  
November 7, 2007

  
JEB S. RAKOFF U.S.D.J.

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November 8, 2007

D.F.S. Brothers Iron Works, Inc.  
Maspeth Iron Works, Inc.  
58-15 58<sup>th</sup> Place  
Maspeth, NY 11378

Attention: Dominick LoFaso

Re: Local 580 v. DFS Brothers Iron Works  
and Maspeth Iron Works  
Our File No.: 4003-0899  
Civil Action No.: 07 civ 5463(JSR)

Dear Mr. LoFaso:

Enclosed please find an Order from Judge Rakoff that directs you to submit to an audit of your books and records for the period October 1, 2005 to the present. The Order and Judgment directs that the audit be performed on both D.F.S. and Maspeth. Please be advised that if you do not contact this office immediately to make arrangements for the audit, I will so inform the Court and we will seek appropriate remedies.

Should you have any questions, please do not hesitate contacting me.

Very truly yours,

COLLERAN, O'HARA & MILLS L.L.P.

By:   
DENIS A. ENGEL

DAE/jc

cc: Dennis Lusardi, Jr.  
Joseph M. Stern (w/enclosure)  
Robert Tavon